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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,497	07/18/2000	Yu Zheng	PAT-1238-DIV	9055
7590	02/08/2005		EXAMINER YIP, WINNIE S	
Raymond Sun 12420 Woodhall Way Tustin, CA 92782			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/618,497

**Applicant(s)**

ZHENG, YU

**Examiner**

Winnie Yip

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 71 and 73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 71 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Part II DETAILED ACTION***

This office action is in response to applicant's amendment filed on November 12, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

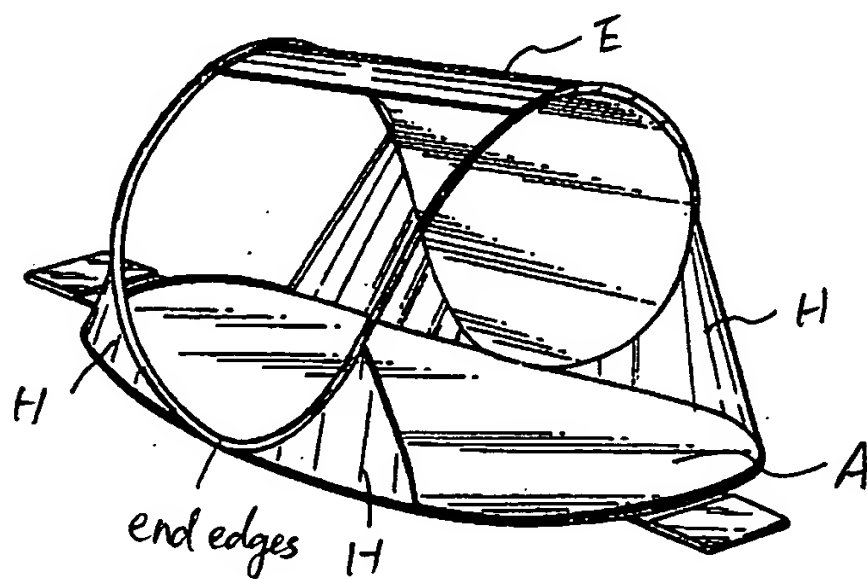
***Claim Rejections - 35 USC § 103***

1. Claims 1-3, and 71 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese (D341,407) in view of Chin '961.

McLeese '407 (see drawings shown below) teaches a collapsible structure comprising a single first base panel (A) having a foldable frame members (C) partially being covered by a flexible material (D) through a sleeve (S1) which is extend along an outer periphery of the flexible material (D), a single second upper panel (E) having a foldable frame members (F) partially covered by a flexible material (G) through a sleeve (S2), wherein the second upper panel (E) having two opposite end edges (B) being coupled to the opposite sides of the outer periphery of the first base panel (A) by interconnecting pieces (H) such that the first lower and second upper panels (A, E) define an interior space therebetween, and the second upper panel (E) has a front edge (I) defining an opening for ingress and egress to the interior space. Although McLeese does not define the entire opposite end edges of the second upper panel (E) each being coupled to the outer periphery of the first base panel by single interconnecting piece that causes the opposite end edges of upper panel spaced apart and extending beyond the outer periphery edge of the base panel. Chin teaches a collapsible structure comprising a plurality of panels being coupled together including an upper panel (14) and a lower side panels (12) each having a

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fabric material (66 , 3, respectively), a sleeve extending along the outer periphery thereof, a foldable frame member (64, 28, respectively) is covered by the sleeve respectively long the outer periphery of the panel, wherein the upper and lower panels having edges being coupled together by a interconnecting fabric piece (see Fig. 6) such that the opposite edge edges of the upper panel (14) being positioned space apart and extending outside of the edge of the lower panel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese having the opposite end edges of the upper panel being coupled to the opposite edges of the lower panel by larger interconnecting fabric pieces coupled between two sleeves between the edges of two foldable for coupling the edges of two panels together as taught by Chin, as old and well known connecting concept, as disclosed by the applicant by alternative embodiment show in Figs, 1A and 16, at a location, such that the edges of the upper panel can be spaced apart secured to and also extended beyond (inside or outside) of the edge of the base panel to provide an suitable interior space area as desired.



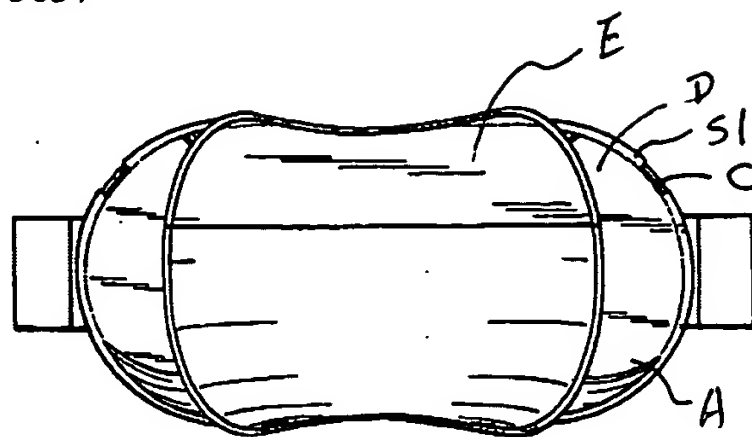


FIG. 3

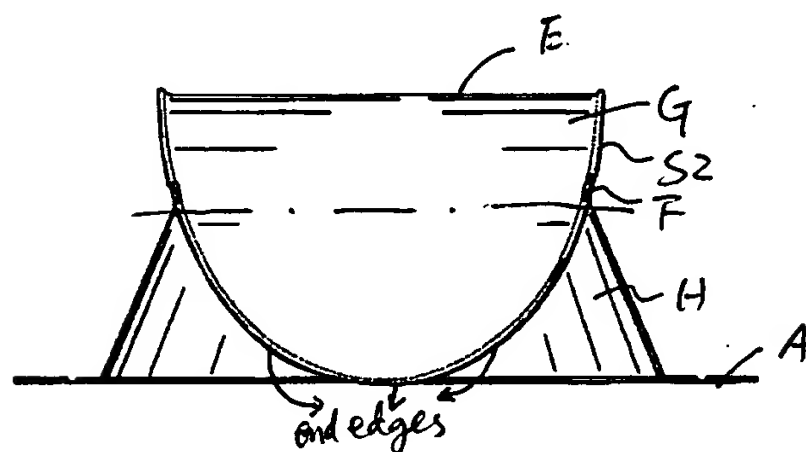


FIG. 4

2. Claims 1-3, 71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese (Re. 35,571) in view of Wan '046.

McLeese '571 teaches a collapsible structure comprising a single first base panel (14) having a foldable frame members (14) partially being covered by a flexible material (68) through a sleeve which is extend along an outer periphery of the flexible material (68), a single second upper panel having a foldable frame members (16) partially covered by a flexible material (40) through a sleeve, wherein the second upper panel (16) having two opposite end edges (22) being straight portions, said the straight portions of the second upper panel (22) being coupled to the opposite sides of the outer periphery of the first base panel (14) by an interconnecting fabric loop (50) respectively which is considered to be a fabric piece as claimed (see col. 5, lines 14-20), and the second upper panel (40) has a front edge (58) defining an opening by zippers for ingress and

egress to the interior space (see Fig. 2) . Although McLeese '571 does not define the opposite end edges of the second upper panel (16) each being coupled to the outer periphery of the first base panel by single interconnecting piece (50) that causes the opposite end edges of upper panel spaced extending outside of the outer periphery edge of the base panel (14), Wan teaches a collapsible structure comprising a plurality of panels each having foldable frame member (40) covered by a flexible material (30), the panels having a sleeve (41) extending along an outer periphery, the sleeve of the outer periphery having straight edge portion of adjacent panels being coupled together by an interconnecting fabric piece (32), wherein the interconnecting fabric piece provides a flexible connection between adjacent panels and define a larger interior area between the panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese '571 having the straight portions of the opposite end edges of the upper panel being coupled to the straight portions of opposite side edges of the lower panel each by a larger interconnecting fabric piece instead of a loop for coupling the edges of two panels together as taught by Wan, as a selected desire connecting concept, as disclosed by the applicant by alternative embodiment show in Figs, 1A and 16, at a location, such that the edges of the upper panel can be spaced apart secured to and also extended beyond (inside or outside) of the edge of the base panel to provide a larger interior space area between the panels as desired.

### ***Response to Arguments***

3. In response to applicant's argument, which refers to the prior arguments filed on October 3, 2003 and April 1, 2004, that the examiner's conclusion of obviousness is based upon improper

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hindsight reasoning and no suggestion to combine the references, against, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). And, examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this Case, both references to McLeese and Chin both teach a collapsible structure comprising panels each formed by a foldable frame covered by a material along a sleeve formed by the material. McLeese teaches the collapsible structure comprising an upper panel having opposing end edges coupled to opposite side periphery of a base panel as claimed. Although, applicant argues that McLeese does not define the opposing edges of the upper panel being coupled to the base panel by an interconnecting piece such that the opposing edges of the upper panel extending beyond the outer periphery of the base panel as claimed, we agree that this is so, otherwise our rejection would have been entered under section U.S.C. 102 of the statute. Chin is used as a teaching reference only to teach how an edge of one panel can be coupled to an edge of another panel with an extending piece to provide extension therebetween two panels. Chin is used as a teaching reference to teach two opposing end edges of one panel would be coupled to an outer periphery

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of another panel by an interconnecting piece which is interconnected between the sleeves of two panels, as well known in the art of sew field, such that the opposing edges of upper panel would extend beyond the outer periphery of the other panel as claimed due to the flexible properties of the frames of the panels and the interconnecting pieces. Chin solves the same problem as defined by applicant. Further, regard to applicant's argument that the interconnecting pieces (H) of McLeese's structure do not coupled the end edges of the upper panel but rather to be coupled to the side edges of the upper panel. It is examiner's position that the interconnecting pieces (H) of McLeese's structure being broadly considered to be coupled to the end edges of the upper panel since an end edge would be the end area of a curved edge of the panel. Regard to applicant's argument, with respect to claim 1, that the end edges of McLeese's structure are rounded at a curved point which would not be practical or feasible to be coupled by an interconnecting piece since one would then have a very thin piece of material that connects the rounded end edge, this is not persuasive since, first, applicant does not disclose the specific dimension of the interconnecting piece. Second, applicant specifically claims the interconnecting piece being a fabric piece which as same as taught by Chin. Further, using a fabric piece to connect two curved edges of two panels would have been obvious to one ordinary skill in the art as taught by Chin. Therefore, the rejection under 35 U.S.C. 103(a) as being unpatentable over McLeese in view of Chin is still deemed proper and ground.

4. Applicant's arguments with respect to new claim 73 which specifically claims the interconnecting fabric piece being coupled to the straight portion of sleeve of the upper panel to



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the lower panel. This feature was not specifically and previously claimed. Therefore, this argument is deemed to be moot in view of the new grounds of rejection.

***ACTION IS FINAL***

5. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
January 31, 2005